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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,715	02/16/2001	W. Gregory Chernoff	6631-27092	6811

7590 04/10/2002

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Indianapolis, IN 46204

EXAMINER

FARAH, AHMED M

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 04/10/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/785,715

Applicant(s)

W. George Chernoff

Examiner

A. Farah

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lee (U.S. Pat. No. 5,552,162).

Lee discloses a method of covering scar surface with a silicone- based gel (Col. 5, lines 5-15). Lee further describes an existing therapy for the treatment of hypertrophic scars and keloids using X-ray irradiation (Col. 4, lines 54-64).

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Pocknell (U.S. Pat. No. 4,991,574).

Pocknell Col. 1, lines 56-59 disclose a method of applying silicone gel to a hypertrophic scar. In reference to claim 2, Pocknell teaches that the gel layer over the skin should not be so thick that it will conform substantially to the contours of the area to be treated. Therefore, to wipe off the excess gel is inherent to his invention. In reference to claim 3, he teaches a method of applying silicone-gel sheet to the hypertrophic scar (Col. 1, lines 34-56).

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4. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Studin (U.S. Pat. No. 6,337,076 B1).

Studin discloses a method and composition for treating hypertrophic scars so as to reduce the size and improve the appearance of scars, the method comprising the step of applying to the scar a composition comprising a film-forming carrier such as a Collodion, which contains one or more active ingredients such as a topical steroid, silicone gel and vitamin E (see the abstract).

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Tankovich (U.S. Pat. No. 5,897,549).

Lee, described above, does not teach a method of treating the scar using a laser. However, Tankovich discloses an alternative method for treating hypertrophic scars using a laser (Col. 2, lines 39-46). In reference to claims 6-8 and 10-12 Table 1 and Table 2 of Tankovich clearly show a number of lasers suitable for the treatment, which can be used to obtain the parameters specified in the instant claims such as the pulse duration, beam spot size, and the energy density.

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In reference to claim 5, these lasers include a dye laser with wavelength range of 550 nm to 650 nm. Therefore, it would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to modify the method described in Lee's invention, and employ lasers as described by Tankovich instead of the X-ray irradiation in order to treat the scars and avoid the potential skin cancer of the X-ray therapy.

***Conclusion***

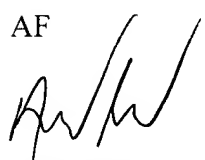
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the following references.

- |                   |                         |
|-------------------|-------------------------|
| 1. Johnson et al. | U.S. Pat. No. 5,500,019 |
| 2. Knowlton       | U.S. Pat. No. 5,765,567 |
| 3. Perricone      | WO 01/26606 A2          |

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Farah whose telephone number is (703) 305-5787. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Linda Dvorak, can be reached on (703) 308-0994. The fax number for the Examiner is (703) 746-3368.

  
**LINDA C. M. DVORAK**  
**SUPERVISORY PATENT EXAMINER**  
**GROUP 3700**

AF

  
05/06/2001